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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/764,918      | 01/18/2001  | Jeno Gyuris          | GPCI-P02-109        | 8196             |

28120 7590 05/28/2003

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| EXAMINER |
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YU, MISOOK

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| ART UNIT | PAPER NUMBER |
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1642

DATE MAILED: 05/28/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/764,918

Applicant(s)

GYURIS ET AL.

Examiner

MISOOK YU, Ph.D.

Art Unit

1642

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: the non-entered amendment has 15 new claims.

3. ☒ Applicant's reply has overcome the following rejection(s): None.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-6, 8, 12-27, 34 and 49-52.

Claim(s) withdrawn from consideration: 7, 9-11, 28-33, 35-48, and 54-62.

8. ☒ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.

10. ☐ Other: \_\_\_\_\_


Misook Yu, 5/22/2003

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that instant invention is drawn to a chimeric polypeptide with increased biological activity and WO 95/30759 (the art of record) merely teaches increased stability of a peptide when fused to serum albumin. Therefore the art of record does not teach instant invention. However, in the response filed on 7-5-2002 (Paper No. 12), applicant argued that an increased half-time is an increase biological activity. See page 13-17 of Paper No. 12.

Applicant further argues that the specification at page 41, paragraph 1 teaches one example, a synthetic EC binding peptide inserted into mouse serum albumin has 1000-fold higher biological activity than the synthetic binding peptide alone; however, applicant is arguing a limitation which is not in these claims.

As for the 103 (a), applicant argues that WO 95/30759 does not teach inserting a useful peptide into the various cysteine loops of serum albumin but this argument is not persuasive because WO 95/30759 teaches the preferred insertion sites are exposed loops (see page 7) and Carter et al (1994, Advances in Protein Chemistry, vol. 45, pages 153-203) teach that crystal structure of serum albumin has been solved with high resolution, which shows that serum albumin has several surfaced exposed cysteine loops (see page 167-173).

As for other rejection and objection of record, applicant argues with the non-entered amendment, therefore the rejection and the objection are maintained.

  
**MARY E. MOSHER**  
**PRIMARY EXAMINER**  
**GROUP 1800/600**